

### **REMARKS/ARGUMENTS**

Prior to this amendment, claims 1-15 and 29-41 were pending. In this amendment, claims 1, 2, 7-11, 29, 31-41 are amended. Claims 3-6 and 12-14 are canceled and claims 42-45 are added. Thus, after entry of this amendment, claims 1-2, 7-11, 15, and 29-45 will be pending.

#### **Claim Objections**

Claim 30 is objected to under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claim 30 has been canceled.

Claims 29-41 have been renumbered, including the dependencies, to correctly reflect the number of the originally filed claims per Rule 1.126. Applicant thanks the Examiner for pointing out this informality.

Accordingly, Applicants respectfully request withdrawal of these objections.

#### **Rejections under 35 USC § 112, written description**

Claims 1, 29, 31, 36 and 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

As to claims 1 and 36, the claim element at issue has been deleted from these claims.

As to claim 29, page 8 states "[t]he inventive system includes a wireless communication network that enables a service system to communicate with one or more users 1 MCDs via a gateway that translates SMS messages into electronic files and routes them to appropriate destinations (and vice versa)." The communications between the MCD and the service control system are done via SMS, which is known by one skilled in the art to be accomplished by designating a phone number. Since FIG. 1 shows the MCD and the service system as separate entities, each would have a separate phone number.

Exemplary support for claims 31 and 41 can be found at least on page 29 lines 1-5 and page 33 line 14-20.

Accordingly, Applicants respectfully request withdrawal of these rejections.

**Rejections under 35 USC § 112, indefiniteness**

Claims 30, 31, 34 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite.

Claim 30 has been canceled.

Claims 31 and 41 have been amended to provide antecedent basis and the phrase "a specification of" modifies the "whether" clause. Applicants submit that this is not an omnibus clause since not all default preferences will include a specification of whether identity verification should be requested.

Regarding claim 34, the term "some" has been removed. Other amendments have been made to clarify the claim.

Accordingly, Applicants respectfully request withdrawal of these rejections.

**Claim Rejections under 35 USC § 102(b), Hudda**

Claims 1-11, 15, 29-37, and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Hudda (Paper #20060911; US Pub.No.2001/0049636).

**Claims 1-3, 7-11, 15 and 29-35**

Claim 1 is allowable as Hudda does not teach or suggest each and every element of claim 1. For example, claim 1 recites:

*(a) at a service control system, receiving subscription information, from the at least one user, wherein the subscription information includes an agreement to receive offers at the mobile communication device;*

*(b) providing, to the MCD, a message including an offer for one or more services offered by a service provider, wherein providing the offer is not in response to a request, selection, or identification for a service that was received from the MCD;*

*(c) at the service control system from the MCD, receiving an acceptance of the offer...*

*wherein, when performing at least steps (b), (c), and (e), the service control system communicates with the mobile device using at least one of a short message service (SMS) protocol and a multimedia message service (MMS) protocol.*

In Hudda, the consumer uses a wireless shopping device 12 to identify a product, to select "recommended gift ideas," and to request a search for a particular product. *See Hudda*,

Figs.4,6; page 4 para.0066, 0070-0072, page 7 para.0106-0109, 01 13; page 8 para.0119,0128-0130, page 10 para.0147. Thus, any offer to buy a product is sent to the consumer in response to a request, selection, or identification sent from the wireless shopping device 12. In contrast, claim 1 recites "*wherein providing the offer is not in response to a request, selection, or identification for a service that was received from the MCD.*"

Furthermore, Hudda mentions using SMS messages that are sent to a person's buddy. There is no mention of using SMS or MMS messages for providing offers and accepting offers.

For at least these reasons, claim 1 is allowable over the cited references. As claim 1 is allowable, claims 2-3, 7-11, 15 and 29-35 which depend therefrom are also allowable for at least the same rationale.

Support for the amendments to claim1 can be found, for example, on pages 8 and 20-23 of the present specification.

#### Claims 36-45

Applicants submit that independent claims 36 and 42 are allowable for at least the same rationale as claim 1. As claim 36 is allowable, claims 37-41 which depend therefrom are also allowable for at least the same rationale. As claim 42 is allowable, claims 43-45 which depend therefrom are also allowable for at least the same rationale.

#### **Rejection under 35 U.S.C. 102(b), Hudda in view of Yamazaki**

Claims 12-14 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudda in view of Yamazaki (US Pub. No.2003/0004834). Claims 12-14 and 38 are allowable for being dependent on allowable claims as the cited teaching of Yamazaki fail to make up for the deficiencies of claim 1.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

/David B. Raczkowski/

David B. Raczkowski  
Reg. No. 52,145

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 415-576-0200  
Fax: 415-576-0300  
DBR:scz  
61237910 v1